

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
CENTRAL ILLINOIS LIGHT)
COMPANY, d/b/a AMEREN CILCO;)
CENTRAL ILLINOIS PUBLIC)
SERVICE COMPANY, d/b/a AMEREN)
CIPS; and ILLINOIS POWER)
COMPANY, d/b/a AMEREN IP)
) No. 07-0539
Approval of Energy Efficiency)
and Demand Response Plan.)

Chicago, Illinois
January 3, 2008

Met, pursuant to adjournment, at 1:00 p.m.

BEFORE :

Ms. Claudia Sainsot and Mr. Douglas E. Kimbrel
Administrative Law Judges

APPEARANCES :

JONES DAY, by
MS. LAURA M. EARL
77 West Wacker Drive
Chicago, IL 60601
appearing for the Ameren Illinois utilities;

MR. CARMEN FOSCO
MR. JOHN FEELEY
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160 North LaSalle Street, Suite C-800
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appearing for ICC Staff;

1 APPEARANCES (cont.):

2 MS. SUSAN J. HEDMAN
MS. KRISTIN MUNSCH
3 100 West Randolph, 11th Floor
Chicago, IL 60601
4 appearing for the People of the
State of Illinois;

5
MR. ROBERT KELTER
6 35 East Wacker Drive, 13th Floor
Chicago, IL 60601
7 appearing for the Environmental
Law and Policy Center;

8
MS. ANNE McKIBBIN
9 208 South LaSalle Street, Suite 1760
Chicago, IL 60604
10 appearing for the Citizens Utility Board;

11
MS. CYNTHIA A. FONNER
550 West Washington, Suite 300
12 Chicago, IL 60661
appearing for Constellation New Energy, Inc.,
13 and Constellation Energy Commodities
Group, Inc.;

14
SMIGEL, ANDERSON & SACKS, by
15 MR. SCOTT H. DE BROFF
4431 North Front Street, 3rd Floor
16 Harrisburg, PA 17110
appearing for Consumer Powerline;

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MR. BRIAN P. GRANAHAHAN
18 407 South Dearborn, Suite 701
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19 appearing for Environment Illinois Research and
Education Center;

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22

1 APPEARANCES (cont.):

2 DLA PIPER US, LLP, by
3 MR. JOSEPH E. DONOVAN
4 203 North LaSalle Street, Suite 1900
5 Chicago, IL 60601
6 appearing for Coalition of Energy Suppliers;

7 MR. CONRAD REDDICK
8 1015 Crest
9 Wheaton, IL 60187
10 appearing for Illinois Industrial
11 Energy Consumers.

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- direct</u>	<u>Re- cross</u>	<u>By Examiner</u>
None.					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
None.		

1 JUDGE SAINSOT: By the authority vested in me
2 by the Illinois Commerce Commission, I now call
3 Docket No. 07-0539. It is Central Illinois Light
4 Company, d/b/a Ameren CILCO, et al., otherwise known
5 as the Ameren companies, and this docket seeks
6 approval of energy efficiency and demand response
7 plans.

8 I also call Docket No. 07-0540. It is
9 the petition of Commonwealth Edison Company, and it
10 also seeks approval of ComEd's energy efficiency and
11 demand response plan.

12 And, finally, I call Docket
13 No. 07-0541, and it is the petition of the Illinois
14 Department of Commerce and Economic Opportunity, and
15 it seeks approval of DCEO's energy efficiency
16 portfolios technically.

17 Will the parties identify themselves
18 for the record, please, and please remember to
19 identify which dockets you're in. All three, you can
20 just say "all three."

21 Okay. Would somebody like to begin?

22 MR. WETZLER: Andrew Wetzler, your Honor, on

1 behalf of the Natural Resources Defense Council on
2 Docket 0540 and 0541 pending subject to a motion for
3 admission pro hac vice.

4 MR. KELTER: Robert Kelter on behalf of the
5 Environmental Law and Policy Center in all three
6 dockets.

7 MS. McKIBBIN: Anne McKibbin on behalf of the
8 Citizens Utility Board in all three dockets.

9 MR. JOLLY: Ronald D. Jolly on behalf of the
10 City of Chicago in the ComEd docket, 07-0540, and the
11 DCEO docket, 07-0541.

12 MR. FOSCO: Carmen Fosco, John Feeley and
13 Arshia Javaherian appearing on behalf of the Staff of
14 the Illinois Commerce Commission in all three
15 dockets.

16 MS. HEDMAN: Susan Hedman and Kristin Munsch of
17 the Illinois Attorney General's Office on behalf of
18 the People of the State of Illinois in all three
19 dockets.

20 MS. EARL: Laura Earl on behalf of Ameren
21 CILCO, Ameren CIPS and Ameren IP with Jones Day,
22 77 West Wacker, Chicago, Illinois, 60601, appearing

1 in 07-0539.

2 MR. PABIAN: On behalf of Commonwealth Edison
3 Company, Michael S. Pabian and also Mark Johnson and
4 Matthew Lyon of Sidley & Austin in Dockets 07-050 and
5 07- -- I'm sorry -- 07-0540 and 07-0541.

6 MS. FONNER: Cynthia Fonner on behalf of
7 Constellation New Energy, Inc., and Constellation
8 Energy Commodities Group, Inc., in all three dockets.

9 MR. REDDICK: Conrad Reddick, Eric Robertson
10 and Ryan Robertson appearing on behalf of the
11 Illinois Energy -- I'm sorry -- Illinois Industrial
12 Energy Consumers, IIEC, in the Ameren and ComEd
13 dockets only.

14 MR. STREICKER: David Streicker, general
15 counsel of DCEO, appearing in the DCEO docket only.

16 MR. GRIFFIN: Assistant Attorney General Gary
17 Griffin, G-r-i-f-f-i-n, appearing on behalf of DCEO
18 in 07-0541.

19 MR. ABINOJA: Allan Abinoja, A-b-i-n-o-j-a,
20 Assistant Attorney General, appearing on behalf of
21 DCEO in 07-0541 only.

22 MR. DONOVAN: Appearing on behalf of the

1 Coalition of Energy Suppliers, the law firm of DLA
2 Piper US, LLP. The Coalition consists of
3 Constellation New Energy, Inc., Direct Energy
4 Services, LLC, Integrys Energy Services Corporation
5 and MidAmerican Energy Company. Your Honor, we have
6 pending petitions to intervene in all three
7 proceedings.

8 MR. DE BROFF: I'm Scott DeBroff with Smigel,
9 Anderson & Sacks on behalf of Consumer Powerline,
10 Inc.

11 MR. MUNSON: Michael Munson on behalf of
12 Building Owners and Managers Association of Chicago
13 appearing in Docket No. 07-0540.

14 MR. GRANAHAH: Brian Granahan on behalf of
15 Environment Illinois Research and Education Center,
16 all three dockets.

17 JUDGE SAINSOT: Is there any appearance by
18 phone?

19 Okay. Before I forget, we've had an
20 off-the-record discussion, and Mr. Wetzler asked if
21 it would be possible to file reply briefs and reply
22 briefs on exceptions. I indicated at that time that,

1 in my opinion, there wasn't enough time for us to get
2 the orders out in time and for the Commission to
3 actually read them. So in that vein, I denied his
4 request.

5 And Mr. DeBroff requested to produce a
6 witness tomorrow, and I denied that request as well
7 due to the fact that the parties weren't put on
8 sufficient notice that there would be a witness from
9 that party.

10 Okay. So I'm going to start with
11 0539.

12 I have a motion for admission pro hac
13 vice filed by Mr. Kurtz and Mr. Boehm as attorneys
14 for the Kroger Company. Are those attorneys present?

15 Okay. Well, I guess I'll hold that
16 until tomorrow then. And Kroger's petition for leave
17 to intervene as well.

18 Okay. I have a petition for leave to
19 intervene on behalf of the Coalition of Energy
20 Suppliers.

21 MR. DONOVAN: Your Honor?

22 JUDGE SAINSOT: Yes.

1 MR. DONOVAN: I'll make myself available for
2 any comments or objections.

3 JUDGE SAINSOT: Okay. That's you?

4 MR. DONOVAN: Correct.

5 JUDGE SAINSOT: Okay. Any objection?

6 Okay. Hearing no objection, that
7 petition for leave to intervene is granted.

8 A petition for leave to intervene
9 filed by Blue Star Energy Services. Any objection to
10 that petition?

11 Hearing no objection, the petition for
12 leave to intervene of Blue Star Energy Services is
13 granted.

14 I have a petition for leave to
15 intervene on behalf of the Illinois Industrial Energy
16 Consumers. Any objection to that petition? Is
17 somebody here on behalf of them?

18 Okay. I'm sorry.

19 Hearing no objection, that petition is
20 granted.

21 I have a petition for leave to
22 intervene filed by Consumer Powerline. Any objection

1 to that one?

2 Hearing no objection, that petition is
3 granted.

4 A petition for leave to intervene was
5 also filed on behalf of the Environment Illinois
6 Research and Education Center. Is somebody here?

7 MR. GRANAHAHAN: Yes.

8 JUDGE SAINSOT: Okay. Any objection to that
9 petition?

10 Hearing no objection, that petition is
11 granted.

12 Okay. Anything I missed regarding
13 0539?

14 Oh, Constellation -- no, Constellation
15 Energy, I've already granted yours.

16 MS. FONNER: Correct, your Honor.

17 JUDGE SAINSOT: Mr. Reddick, yours was filed
18 twice. I was just looking to make sure it was the
19 same thing.

20 Anything further on 0539 regarding
21 petitions for leave to intervene?

22 Okay. Turning to 07-0540.

1 I have a petition for leave to
2 intervene filed by the Coalition of Energy Suppliers.
3 Any objection?

4 MR. PABIAN: No objection.

5 JUDGE SAINSOT: Okay. That being the case,
6 that petition seeking leave to intervene is granted.

7 I have a petition for leave to
8 intervene filed on behalf of Building Owners and
9 Managers Association of Chicago. Any objection?

10 MR. PABIAN: No objection.

11 JUDGE SAINSOT: Okay. That being the case,
12 Mr. Munson, your petition is granted.

13 Okay. I have a petition for leave to
14 intervene filed by Blue Star Energy Services.
15 Anybody here on behalf of Blue Star Energy?

16 Okay. So we'll hold that.

17 Petition for leave to intervene filed
18 on behalf of the Consumer Powerline.

19 MR. PABIAN: No objection.

20 JUDGE SAINSOT: Okay. That being the case,
21 it's granted.

22 Petition for leave to intervene on

1 behalf of the Illinois Industrial Energy Consumers.

2 MR. PABIAN: No objection, your Honor.

3 JUDGE SAINSOT: Okay. That being the case,

4 leave to intervene is granted to the IIEC.

5 And am I correct that there's no

6 motions for leave to appear pro hac vice in the ComEd

7 docket?

8 MR. WETZLER: No, your Honor. I filed a motion

9 on my behalf.

10 JUDGE SAINSOT: That's right. Thank you.

11 And you'll get something on file --

12 oh, you filed a motion and I just missed it, or is

13 this the one that was --

14 MR. WETZLER: We filed -- we intervened in this

15 docket, and we filed a motion for me to appear.

16 JUDGE SAINSOT: And refresh my recollection,

17 you're the NRDC?

18 MR. WETZLER: Yes.

19 JUDGE SAINSOT: Any objection?

20 MR. PABIAN: No objection.

21 MR. FOSCO: Your Honor, we don't have an

22 objection; but I believe in their petition to admit

1 pro hac vice, they did not specify Mr. Wetzler's
2 E-mail address, so I don't know if he wants to be on
3 our service list.

4 MR. WETZLER: Yes. That was pointed out to us,
5 and I appreciate you pointing it out. I think that
6 we just sent a notice to the Clerk in Springfield,
7 and I have been getting E-mails.

8 Is there anything I should be doing
9 now other than that?

10 MR. FOSCO: We have no objection, but we just
11 would prefer electronic service, and I guess we need
12 an E-mail address.

13 JUDGE SAINSOT: Well, you can certainly -- are
14 you on the service list?

15 MR. WETZLER: Well, now I'm not so sure. But
16 as of yesterday, I thought I was.

17 JUDGE SAINSOT: That's worth checking out just
18 for convenience.

19 Okay. So there's no objection to the
20 petition filed by the NRDC?

21 MR. PABIAN: No, your Honor.

22 JUDGE SAINSOT: That being the case, that's

1 granted. Thank you for reminding me.

2 And you're pro hac vice?

3 MR. WETZLER: Yes.

4 JUDGE SAINSOT: Okay. Any objection to

5 Mr. Wetzler's motion for leave to appear pro hac

6 vice?

7 MR. PABIAN: No, your Honor.

8 JUDGE SAINSOT: Okay. That being the case,

9 it's granted.

10 MR. WETZLER: Thank you.

11 JUDGE SAINSOT: Okay.

12 MR. GRANAHAAN: Your Honor, Environment Illinois

13 Research and Education Center, we also filed a

14 petition for leave to intervene, too, in 07-0540.

15 JUDGE SAINSOT: And the name of your entity?

16 I'm sorry.

17 MR. GRANAHAAN: Environment Illinois Research

18 and Education Center.

19 JUDGE SAINSOT: Okay. Any objection to that

20 petition?

21 MR. PABIAN: No, your Honor.

22 JUDGE SAINSOT: That being the case, your

1 motion is granted.

2 Are we done with 0540?

3 Okay. Is Mr. Fitzhenry here today?

4 MS. EARL: No, your Honor.

5 JUDGE SAINSOT: Will he be here tomorrow?

6 MS. EARL: No. He'll be participating by
7 phone.

8 JUDGE SAINSOT: Okay.

9 MS. EARL: If that's permissible. He can be
10 available.

11 JUDGE SAINSOT: No. There's just a motion to
12 admit him pro hac vice. Is there any objection to
13 Mr. Fitzhenry -- did I already grant that?

14 MS. EARL: I believe that the motion was to
15 admit Mr. Tomc pro hac vice.

16 JUDGE SAINSOT: Oh, okay. And Mr. Tomc will be
17 here or no?

18 MS. EARL: No, your Honor.

19 JUDGE SAINSOT: Any objection?

20 MR. PABIAN: No, your Honor.

21 JUDGE SAINSOT: Okay. That motion is granted.

22 Okay. Let's start with the easy ones.

1 Commonwealth Edison has a petition for
2 leave to intervene in this docket. Any objection?

3 MR. FOSCO: We're on 41 now?

4 JUDGE SAINSOT: 0541, yes. This is DCEO's
5 docket.

6 That being the case, your motion is
7 granted, Mr. Pabian, and ComEd is given leave to
8 intervene.

9 Constellation New Energy, any
10 objection to Constellation -- I already granted
11 yours. Never mind.

12 MS. FONNER: I believe that was granted last
13 time.

14 JUDGE SAINSOT: It gets a little confusing.

15 Consumer Powerline, any objection to
16 Consumer Powerline intervening?

17 Okay. No objection. That petition is
18 granted.

19 Blue Star Energy Services, any
20 objection to the petition for leave to intervene
21 filed by Blue Star Energy Services?

22 Hearing none, that petition is

1 granted.

2 And NRDC, you're seeking admission
3 pro hac vice and leave to intervene. Any objection
4 to Mr. Wetzler's motion seeking leave to appear pro
5 hac vice?

6 Hearing none, it's granted.

7 Any objection to Mr. Wetzler's
8 petition for leave to intervene filed on behalf of
9 the NRDC?

10 Hearing none, that petition is
11 granted.

12 Okay. There's also a petition for
13 leave to intervene filed by the Coalition of Energy
14 Suppliers. Any objection to that petition for leave
15 to intervene?

16 Hearing none, that petition is
17 granted.

18 There's a petition for leave to
19 intervene also filed by the Environment Illinois
20 Research and Education Center. Any objection?

21 Hearing none, that petition is
22 granted.

1 Did I miss anything in DCEO's docket?

2 Okay. Why don't we go over the
3 schedule for tomorrow. We're starting at 9:00.

4 Is there an estimate of how long this
5 is going to take?

6 MR. FOSCO: Your Honor, Carmen Fosco on behalf
7 of Staff. We have received estimates from parties,
8 and the current estimates are that we have
9 approximately 6 hours and 30 minutes of cross. I
10 think some of the estimates are still in flux or in
11 further evaluation.

12 JUDGE SAINSOT: You mean total, not just Staff?

13 MR. FOSCO: Correct. Actually Staff has no
14 cross. For all parties, your Honor, the total is
15 6 hours and 30 minutes.

16 And we did distribute a list to all
17 the parties and a copy to your Honors. And there are
18 approximately -- well, I guess with your ruling on
19 Consumer Powerline, there are 12 witnesses for which
20 parties have identified cross-examination in the
21 various dockets; and then there are 14, I guess,
22 witnesses for which the parties have not identified

1 any cross although there are some agreements to
2 introduce data requests for certain witnesses in lieu
3 of cross.

4 JUDGE SAINSOT: Okay. Maybe it would be a good
5 time, so we're all clear, to go over the posttrial --
6 I know we did it off the record.

7 Mr. Kelter, why don't you --

8 MR. KELTER: Well, I believe briefs are due
9 January 14th. There are no reply briefs. The HEPO
10 is due out January 25th. And briefs on exceptions
11 are due February 1st. And I believe that's the whole
12 posttrial schedule.

13 JUDGE SAINSOT: Okay. Is there anything
14 further that needs to be discussed?

15 MS. FONNER: A point of clarification, your
16 Honor. I believe the draft orders you indicated you
17 wanted with the briefs on the 14th. My understanding
18 from the last status hearing was it did not have to
19 be a full proposed order but only particular issues
20 or sections in which the parties wish to comment
21 reflecting their own positions.

22 JUDGE SAINSOT: I believe it was that the

1 utilities and DCEO would submit something just
2 concerning what was agreed to. Of course it would be
3 very unfair to submit something concerning what was
4 not agreed to. There are a lot of issues in these
5 dockets that are not contested, so that was the idea
6 and to get the form down.

7 Mr. Griffin doesn't look happy.

8 MR. GRIFFIN: I never do. I'm a White Sox fan.

9 JUDGE SAINSOT: Anything further?

10 MR. PABIAN: I don't know if this is an issue
11 for your Honor, but if we could get a schedule of the
12 witnesses' order of testimony, that may be helpful.

13 JUDGE SAINSOT: Read into the record?

14 MR. PABIAN: No, no.

15 JUDGE SAINSOT: Mr. Fosco gave me a schedule.

16 MR. PABIAN: That wasn't necessarily the order
17 of scheduling of witnesses.

18 JUDGE SAINSOT: Oh, yeah. Oh, I thought it
19 was.

20 MR. FOSCO: I hadn't heard anything to the
21 contrary, and I asked for input on the order. It
22 doesn't matter to Staff.

1 MR. PABIAN: Okay.

2 MR. FOSCO: But I'm sure we can agree on that
3 by tomorrow morning as far as changes. I don't think
4 there's been a dispute about the schedule so far with
5 it all the same day.

6 MR. KELTER: The witnesses are numbered.

7 MR. FOSCO: And it's all on the same day. I
8 think the only request I had so far was CUB's witness
9 requested to go in the afternoon.

10 MR. JOLLY: And Mr. Abolt would prefer to go
11 between, like, 10:30 and 1:30 so...

12 MR. FOSCO: Okay. So I could move him up in
13 the schedule.

14 JUDGE SAINSOT: Okay. Anything further?

15 MR. FOSCO: Your Honor, I guess I hate to raise
16 this because I don't have an answer to it. But in
17 DCEO's docket, Docket No. 07-0541, either the statute
18 I think is -- it's slightly vague in terms of how
19 DCEO's measures were supposed to be evaluated when
20 they filed a separate docket. Only some of the proof
21 related to their measures is in the companies'
22 dockets. And at one point we discussed among the

1 parties the possibility of consolidating.

2 While we maybe reached agreement
3 between some of the principal parties, I think it's
4 not procedurally possible to consolidate one docket
5 or two dockets -- or one docket into two separate
6 dockets because we have the ComEd docket and the
7 Ameren docket. And it seems to me that consolidation
8 isn't an option because of that, and DCEO hasn't
9 moved to do anything different.

10 But we do have an issue with at least
11 Staff's testimony. Some of the proof related to DCEO
12 is, for instance, in Mr. Val Jensen's testimony,
13 which only appears in the ComEd and Ameren dockets,
14 and yet it relates to the DCEO matter. So I guess
15 Staff will profess some confusion as to how we're to
16 deal with this in the briefs because it seems to me
17 that the DCEO docket should be separately
18 piggy-backed onto at least the Ameren and ComEd
19 dockets.

20 JUDGE SAINSOT: Well, how much evidence are
21 you -- how much evidence is there that's not in the
22 DCEO docket?

1 MR. FOSCO: Well, I think it's Mr. Jensen's
2 testimony primarily and the appendices.

3 JUDGE SAINSOT: Is this something that Staff
4 needs or that DCEO needs?

5 MR. FOSCO: It seems to me it's something that
6 DCEO needs but, I mean --

7 MS. HEDMAN: I think it's something that all of
8 the parties have been concerned about, and that's why
9 we initially proposed consolidation of the three
10 dockets in order to make sure that all of the
11 evidence was in one place.

12 And we would be happy to renew that
13 motion at the risk of being shot down again. But we
14 think that for this very reason because the evidence
15 is, you know, split, particularly for DCEO,
16 consolidation would make a great deal of sense.

17 JUDGE SAINSOT: Consolidating all three dockets
18 into one?

19 MS. HEDMAN: It seems that it would be
20 unworkable, as Mr. Fosco said, to put DCEO -- 041
21 into two separate dockets. It would be either
22 redundant or there would be some splitting that would

1 be required. So the only alternative would be
2 consolidation of all three dockets.

3 JUDGE SAINSOT: And this has to do with
4 Mr. Jensen's testimony and, I take it, the exhibits?

5 MR. FOSCO: Well, it really relates to DCEO's
6 petition because they're the one that filed a
7 separate petition for their own docket instead of
8 filing something in the ComEd and Ameren dockets.

9 JUDGE SAINSOT: Mr. Jensen, is he ICF?

10 MS. HEDMAN: ICF.

11 MR. FOSCO: Yeah. And some of the information
12 related to deeming and other items is only in his
13 testimony, and the DCEO relies upon that -- or the
14 only thing that supports certain aspects of the plan
15 related to that is in Mr. Jensen's testimony. And it
16 seems confusing to Staff because we don't know if
17 we're supposed to address DCEO in ComEd's and
18 Ameren's docket where they're not a party.

19 I mean, this is a very tight time line
20 case, and so we've kind of --

21 JUDGE SAINSOT: So what does DCEO have to say
22 about this?

1 MR. GRIFFIN: Your Honor, it would be our --
2 DCEO's position that consolidation would be fine with
3 us of all three dockets. I think that was earlier
4 suggested and DCEO had agreed to it.

5 JUDGE SAINSOT: How would you write draft
6 orders? I mean, that's a nightmare for the
7 Commission and for me, too, and for Judge Kimbrel.

8 MS. HEDMAN: Your Honor, it strikes me that
9 actually the contrary is true in that you could
10 have -- if we have three separate orders, each order
11 is going to repeat a lot of the same material.

12 JUDGE SAINSOT: Sure.

13 MS. HEDMAN: Having a single order would mean
14 that that would have to be laid out only once, and
15 then there could be separate sections for each of the
16 parties.

17 JUDGE SAINSOT: Right. But just keeping each
18 of the parties straight in terms of segregating all
19 the issues, it's a nightmare.

20 MR. JOLLY: Would it be possible to admit
21 Mr. Jensen's testimony by administrative notice in
22 all three dockets?

1 JUDGE SAINSOT: Sure.

2 MR. JOLLY: And the cross-examination?

3 JUDGE SAINSOT: Sure.

4 Mr. Griffin?

5 MR. GRIFFIN: We have no objection to that,

6 Judge.

7 MR. FOSCO: That would probably help Staff. I

8 don't believe there's anything else, but we were

9 worried about citing testimony in the DCEO docket

10 that wasn't in that docket, and this would seem to

11 solve that problem.

12 JUDGE SAINSOT: So who's going to move for

13 administrative notice?

14 MR. FOSCO: I guess Staff would be happy to do

15 that, take administrative notice of Mr. Jensen's

16 testimony in the Ameren and ComEd dockets in Docket

17 No. 07-0541.

18 JUDGE SAINSOT: Okay. Do that tomorrow. By

19 law, I need a physical copy of it, though.

20 MR. FOSCO: Okay.

21 JUDGE SAINSOT: Okay. Anything else?

22 MR. REDDICK: On scheduling or anything at all?

1 JUDGE SAINSOT: Anything at all.

2 MR. REDDICK: You had indicated earlier that
3 you would prefer to do motions respecting testimony
4 today instead of tomorrow, but I'm flexible on that.

5 JUDGE SAINSOT: Well, if you're talking about
6 six hours of cross-examination, maybe today would be
7 better than tomorrow.

8 MR. REDDICK: No, no, no, no. This is just a
9 motion respecting rebuttal testimony.

10 JUDGE SAINSOT: A motion respecting -- I'm
11 not --

12 MR. REDDICK: A motion to strike portions of
13 rebuttal testimony.

14 JUDGE SAINSOT: Of rebuttal testimony? Do you
15 physically have that motion?

16 MR. REDDICK: I do not.

17 JUDGE SAINSOT: Okay. Well, how would I know
18 what you were talking about right now?

19 MR. REDDICK: Well, that was part of the reason
20 I asked whether you needed something in writing to
21 look at or whether you wanted to deal with it orally
22 today. And I'm happy to go either direction. If you

1 need something in writing, I can get you that today.

2 JUDGE SAINSOT: Well, do you have the rebuttal

3 testimony?

4 MR. REDDICK: I don't have multiple copies of

5 the rebuttal testimony.

6 JUDGE SAINSOT: Why don't we save that until

7 tomorrow.

8 MR. REDDICK: Okay.

9 MR. KELTER: Can you tell us whose testimony it

10 is?

11 MR. REDDICK: Would you like me to file

12 something this evening -- this afternoon?

13 JUDGE SAINSOT: I'm not opposed to an oral

14 motion. I just need to see what --

15 MR. REDDICK: I understand.

16 JUDGE SAINSOT: -- you want stricken.

17 MR. REDDICK: And I don't have multiple copies

18 to share. I didn't bring enough.

19 JUDGE SAINSOT: Okay. Anything -- yes.

20 MR. KELTER: Just given the lateness of the

21 hour, could you tell us what it is that you want to

22 strike so we can all look at it?

1 MR. REDDICK: Sure. There's a portion of
2 Mr. Crumrine's testimony that we believe is legal
3 opinion and improper.

4 JUDGE SAINSOT: Okay. So, for the record,
5 Ms. Hedman, I'm sure that I made it clear but, just
6 for the record, your motion to consolidate is denied.
7 Again, it's just too difficult for us and the
8 Commission.

9 MS. HEDMAN: Thank you, your Honor.

10 JUDGE SAINSOT: Sure. But I think Mr. Fosco is
11 going to take care of the situation.

12 Okay. Anything further?

13 MR. REDDICK: One final point: I had a note to
14 see whether you had a preferred procedure on
15 admitting data requests or data responses since a
16 number of parties have come to agreement to admit
17 data responses in lieu of cross-examination. I
18 anticipate there will be a fair amount of that.

19 Is there an expedited procedure you
20 would like to follow?

21 JUDGE SAINSOT: Can you stipulate?

22 MR. REDDICK: Can do.

1 JUDGE SAINSOT: That's pretty quick.

2 MR. REDDICK: And we wouldn't need to call the
3 witnesses to do that?

4 JUDGE SAINSOT: Pardon me?

5 MR. REDDICK: We wouldn't have to call the
6 witnesses to do that?

7 JUDGE SAINSOT: Right.

8 MR. REDDICK: Correct.

9 MR. KELTER: And then can we just file those
10 electronically after the hearing, or do you want us
11 to bring copies tomorrow or --

12 JUDGE SAINSOT: Oh, I knew there was something
13 I wanted to say that I forgot.

14 No. The Clerk's Office -- if you want
15 something admitted, we need a paper copy. It's a
16 nightmare for the Clerk's Office. If you forget,
17 then we'll take a break and I'll show you where the
18 Xerox machine is. But I'm just saying that we need a
19 physical copy.

20 MR. FOSCO: Your Honor, do we need three copies
21 or one? It seems to change. Do we need three copies
22 of each DR response?

1 JUDGE SAINSOT: No.

2 MR. FOSCO: No. Just one?

3 JUDGE SAINSOT: One or two. Two would probably
4 be better.

5 MR. FOSCO: Thank you.

6 JUDGE SAINSOT: Sure.

7 One more thing I would like to
8 mention: The posttrial briefs, we need statements of
9 fact. It doesn't have to be an elaborate -- like in
10 law school where you had one section with the
11 statement of fact and then the other side the law,
12 but it needs to be something that contains something
13 besides argument, a separate section as to certain
14 facts is fine.

15 I think that's it. Anything further?

16 Okay. Well, thanks. Have a good day.

17 (Whereupon, the above-entitled
18 matter was continued to
19 January 4, 2008, at 9:00 a.m.)

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